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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,967	09/23/2003	Thomas Jelonek	15818-2US JA/AD/mb	7891

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EXAMINER

ORTIZ RODRIGUEZ, CARLOS R

ART UNIT PAPER NUMBER

2125

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,967

Applicant(s)

JELONEK ET AL.

Examiner

Carlos Ortiz-Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38, 40-63 and 65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-38 and 40-54 is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-20, 23-26, 28-33, 55 and 65 is/are rejected.
- 7) ☒ Claim(s) 15, 21, 22, 27 and 56-63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 39 and 64 have been canceled.

Allowable Subject Matter

2. Claims 34-38 and 40-54 are allowed.

Claim Objections

3. Claims 15, 21, 22, 27 and 56-63 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-14, 16-20, 23, 24-26, 28-33, 55 and 65 rejected under 35 U.S.C. 102(e) as being anticipated by Lehmann et al. U.S Patent No. 6,786,726.

Regarding claims 1, 6, 7, 11-14, 16-20, 23, 24, and 29-33 Lehmann et al. discloses a method to model dental restorations, said method comprising: (a) compiling a database of materials for use in preparing a dental restoration; (b) compiling a database of procedures for preparing said dental restoration (C3 L55-63); (c) determining the geometrical constraints of said dental restoration (C3 L64-67); (d) determining the aesthetic constraints of said dental restoration (C4 L13-16); and (e) inputting said geometrical constraints and said aesthetic constraints to a computer to mathematically select from said material database and said procedure database a recipe for producing said dental restoration(C4 L22-58 and C11 L60-67).

Regarding claim 2 Lehmann et al. discloses a method wherein said dental restoration comprises a dental prosthesis (C3 L60-63).

Regarding claim 3 Lehmann et al. discloses a method wherein said dental prosthesis is selected from the group consisting of a crown, a multiple-element prosthesis such as a bridge, a veneer, an inlay or an onlay (C3 L60-63).

Regarding claim 4 Lehmann et al. discloses a method wherein said material database comprises material selections for use in one or more of a substructure, dentin, enamel, masks or stains (C5 L50-53).

Regarding claim 5 Lehmann et al. discloses a method wherein said procedure database comprises one or more of a milling, plasma fusion, rapid-prototyping, layering and fusion of porcelain, polymerization of resins or composites (C4 L41-50).

Regarding claims 8, 9, 10, 26 Lehmann et al. discloses a method wherein said aesthetic constraints are obtained from light reflection measurements (C7 L1-20 and C24 L34-41).

Regarding claim 25 Lehmann et al. discloses a method further comprising (f) emulating said selected dental procedure with said selected material on said computer to image process the most likely outcome of the dental restoration (C4 L59-67).

Regarding claim 28 Lehmann et al. discloses a method further comprising comparing said predicted dental restoration image with the dental restoration to determine differences in morphology and/or symmetry (C7 L1-19).

Regarding claims 55 and 65 Lehmann et al. discloses collecting information regarding dentistry procedure (C4 L23-65). Lehmann further discloses a central source that analyzes and

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determines a recipe (C4 L22-58 and C11 L60-67).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Ortiz-Rodriguez whose telephone number is (571) 272-3747. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on (571) 272-3749. The central official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the general information number at 800-786-9199.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'C. Ortiz-Rodriguez', with a stylized flourish at the end.

Carlos Ortiz-Rodriguez
Patent Examiner
Art Unit 2125

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

cror

September 6, 2005